

The Dispute on the Status of Tibet in International Law – From Sovereignty to Suzerainty

Abstract

Through analyzing the evolution of sovereignty theory in history as well as its divisibility, a comparison is made to illustrate the similarity and difference between sovereignty and suzerainty. After exploring the definition of suzerainty, this article examines that whether Tibet should be regarded as a vassal State under the suzerainty of China during the early twentieth century by studying the relevant international treaties and the practices of China.

Keywords

sovereignty; divisibility; suzerainty; China; Britain; the status of Tibet

Introduction

As a fundamental principle in the Charter of United Nations, the principle of the sovereign equality is widely accepted by almost all members of family of nations. Although the conception of sovereignty has constituted the pillar of international relations, it is an indisputable fact that this conception, from the moment when it was introduced into political science until the present day, has never had a meaning which was universally agreed upon. The major disputes among political scholars and international lawyers lies in whether sovereignty is divisible or indivisible. For gaining a comprehensive understanding of the divisibility and indivisibility of sovereignty, the author seeks to make on review on the evolution of sovereignty from sixteenth century to nineteenth century by examining theories of publicists as well as State practices. This paper first explores the definition of sovereignty as well as its divisibility in the sixteenth century and seventeenth century. Then it investigates the conception of suzerainty in international law, and the relationship between sovereignty and suzerainty is also discussed in this section. Lastly, by applying the knowledge of suzerainty, a case study on the dispute between China and Britain over the status of Tibet is made to illustrate the Sino-Tibetan relations during the early twentieth century from the perspective of international law.

1.The Development of Sovereignty Theory Since the Sixteenth Century

Sovereign State is often put forward as the most important conception in international law because this law is the body of rules which the States consider legally binding in their intercourse. Therefore, sovereign States constitute the basic subjects of international law. There are full and not-full sovereign States. Full sovereign States are perfect subjects of international law, but for not-full sovereign States are only for some

parts subjects of International Law.¹ The difference between full sovereign and not full sovereign States is based on the opinion of what is sovereignty and its divisibility.

Sovereignty is a term with long history and different meanings and it was first introduced into political science by Bodin. He defined sovereignty as “the absolute and perpetual power within a State.” Such power is the supreme power within a State without any restriction whatever except the Commandments of God and the Law of Nature.² In the seventeenth century, Hobbes went further and maintained that a sovereign was not bound by anything and had a right over everything.³ But according to Pufendorf, sovereignty is the supreme power in a State, but not absolute power, and sovereignty may be restricted by constitutional rules.⁴ Although there is a different understanding of the definition of sovereignty, all authors of the sixteenth and seventeenth centuries agree that sovereignty is indivisible and contains the centralization of all power in the hands of the sovereign, whether a monarch or the people itself in a republic.⁵ However, the Westphalian Peace changed the matter again as the several hundred reigning princes of the member-States of Holy Roman Empire had practically become more or less independent since the Westphalian Peace. This enforces the publicists to recognize a distinction between a perfect, full sovereignty, on the one hand, and an imperfect, not-full sovereignty on the other hand. Full sovereignty was attributed to those monarchs who enjoyed an unqualified independence within and without their States. Not-full sovereignty was attributed to those monarchs who were, in various points of internal or foreign affairs of State, dependent upon other monarchs. By this distinction the divisibility of sovereignty was recognized. During the nineteenth century, more and more State practices seemed to confirm the theory of the divisibility of sovereignty. For example, the constitution of Switzerland and that of Germany declared that the member-States of the federal State remain Sovereign States, which indirectly recognizing the divisibility of sovereignty between the member-States and the Federal State.⁶ Under such background, the term “suzerainty” which originally used to describe the relationship between the feudal lord and his vassal was introduced in the field of modern international law to describe not-full sovereignty States.

¹ L. Oppenheim, *International Law: A Treatise*, Vol.1, London: Longmans, Greens and Co., 1905, p 99.

² Jean Bodin, *The Six Books of the Commonwealth*, Basil Blackwell, 1955, pp 25-35.

³ Thomas Hobbes, *On the Citizen*, Cambridge University Press, 1998, pp 75-90.

⁴ Samuel Pufendorf, *On the Law of Nature and Nations*, Oxford University Press, 1934, 1, 1, § 19.

⁵ L. Oppenheim, p 105.

⁶ *Ibid.*, p 106.

2.The Relationship Between Sovereignty and Suzerainty

Regarding the definition of suzerainty, Oppenheim stated that: “Suzerainty is a term which originally was used for the relation between the feudal lord and his vassal.....The modern suzerainty scarcely contains rights of the Suzerain State over the Vassal State which could be called constitutional rights.”⁷ In practice, the suzerainty was re-utilized by European powers in the late nineteenth century to describe the dilapidated authority of Ottoman Empire over components of the Empire which were breaking away and moving towards independence,⁸ however, it lacks juridical precision because the relation between the suzerain and vassal depends on its own merits, hence a general rule regarding the position of vassal within the family of nations cannot be laid down.⁹ Generally speaking, in the relations between vassal State and suzerain State, the former is deprived of external sovereignty though it retains internal sovereignty which the latter is under a duty to respect. As for the position of vassal State, because of being deprived of external sovereignty, it has no position of its own in the family of nations. Therefore, the vassal State remains a portion of the suzerain state which represents it entirely in relations with other nations.¹⁰

On the relationship between suzerainty and sovereignty, Oppenheim maintained that “suzerainty is by no means sovereignty. If it were, the Vassal State could not be sovereign in its domestic affairs and could never have any international relations whatever of its own”.¹¹ From his expression, the establishment of suzerainty is based on the lied in the opinion that sovereignty is divisible, which powers related to sovereignty was not necessarily in one hand. Therefore, the relations between vassal States and suzerain States is established on the assumption that the sovereignty of vassal State could be divided into internal sovereignty and external sovereignty, although its external sovereignty is absorbed by suzerain State. In this sense, the conception of suzerainty is also rooted in recognizing the divisibility of sovereignty, this determines that it can not be universally supported by most publicists and State practice.

⁷ Ibid., p 134.

⁸ James Crawford, *The Creation of States in International Law*, Oxford: Clarendon Press, 1979, p. 209. The London Protocol of 1828 between Britain, France and Russia, which for settling terms of boundaries, tribute, indemnity, and relations of suzerainty to be established between the Ottoman Porte and the Greek Government, stipulated that “(in order to) mark the relations of suzerainty, the Ottoman Porte is to participate in the devolution of the Chief Authority in Greece, but only by investiture.” See W. Kelke, *Feudal Suzerains and Modern Suzerainty*, *Law Quarterly Review*, Vol. 12, Issue 3, 1896, p 223.

⁹ Oppenheim, pp 133-4.

¹⁰ Alexandrowicz Alexander, *The Legal Position of Tibet*, 1954, Vol. 48, No. 2, p 266.

¹¹ Oppenheim, pp 134.

For those who deny this conception, a vassal is either a full sovereignty State or an ordinary portion of so-called suzerain State. In practice, suzerainty is only a temporary product which often utilized by Western powers to describe the governance structure of oriental empires in their peripheries during the nineteenth and twentieth century. As suzerainty had obscured and complicated the relation between empires and frontiers in which not under their direct control, it provided great ambiguity for colonists to define the position of these frontier regions differently from case to case. For example, according to the Treaty of Berlin in 1878, Bulgaria was constituted “an autonomous and tributary Principality under the suzerainty of Sultan (Ottoman)”.¹² Likewise, the Convention of Pretoria between the Transvaal Boers and the United Kingdom in 1881 guaranteed that the inhabitants of the Transvaal territory should enjoy complete self-government under the suzerainty of Her Majesty.¹³ However, with regard to the case of India, albeit without mentioning suzerainty in the Act of 1858 which established direct power of the Great Britain in India, the Interpretation Act of 1889 expressly indicated that the expression “India” shall mean British India together with any territories of any native prince or chief under the suzerainty of Her Majesty excised through the Governor General of India. According to Kelke, the relations of such Indian States to the Great Britain depend on numerous treaties. Generally, the British rights included: (1) restraining their right of making peace and war, sending embassies; (2) limiting the amount of their armies; (3) compelling submission to presence of British resident; (4) regulating residence of Europeans among them; (5) deposition in case of internal misgovernment; and in some cases (6) tribute.¹⁴ Different from the cases of Bulgaria and Transvaal State, which retained internal autonomy in relations with their suzerain powers, the Indian States subjected to above restrictions had to some extent lost their internal autonomy, while the British Crown insisted on using suzerainty to describe the relations with them. As Courtenay Ilbert pointed out in the India case, suzerainty is a term which is perhaps incapable of precise definition, but which is usefully employed to indicate the political authority exercised by one State over another and approximating more or less closely to complete sovereignty.¹⁵ From above discussion, it can be seen that suzerainty is often used to describe a practical situation

¹² The articles of the Treaty of Berlin, see <https://sourcebooks.fordham.edu/mod/1878berlin.asp>.

¹³ <https://www.sahistory.org.za/archive/convention-pretoria-convention-settlement-transvaal-territory-3-august-1881>.

¹⁴ W. Kelke, p 225.

¹⁵ Wallwyn Shephard, *Suzerainty*, *Journal of the Society of Comparative Legislation*, Vol. 1, No. 3, 1899, p 437. Also see Courtenay Ilbert, *the Government of India*, Oxford at the Clarendon Press, 1922.

rather than a legal one because its content differ from case to case, therefore, it is not appropriate to use this term to define the relations between oriental empire and its peripheral inhabitants in the international legal discourse.

3. The Dispute on the Status of Tibet between China and Britain – Sovereignty or Suzerainty

Before the beginning of the twentieth century, British had long adopted the idea that they had better deal with their interest in Tibet through the Chinese Government. For the Chinese Government, considering the reality that Chinese influence had declined greatly in Tibet compared to the eighteenth century, the Chinese officials inclined to satisfy the British requirements for Tibet to avoid swallowing the bitter fruit like the Opium War. For that reason, the British gained permission to open a trade mart in Yatung as well as the Chinese Government's promise to delimit the Sikkim-Tibet frontier.¹⁶ However, the British were apparently not satisfied with the implementation of these treaties. The British had gradually realized that they could not rely on the Chinese Government to fulfill their treaty obligations when Chinese authority over Tibet had merely become a constitutional fiction.¹⁷ In the meantime, the Russia's increasingly engagement in Tibet also constituted a severe threat to the security of British India. It is under such background that the British Government decided to authorize the Colonel Younghusband to go on an expedition to Tibet. In 1904, Britain launched a full-scale military invasion of Tibet, forcing the Tibetan Government to sign the so-called "Treaty of Lhasa" in the absence of participation of the Chinese Government.¹⁸ However, With regard to the question of the Treaty of Lhasa, the British Government felt it was necessary to let the Chinese Government adhere the Treaty, while China was keen to negotiate with the British for modifying the terms of the Treaty. The Chinese Representative Tang Shao-yi (唐绍仪) originally insisted that the Article IX of the Treaty of Lhasa should be redrafted in order to clarify the British position in Tibet and to safeguard Chinese sovereignty. On the Sino-Tibetan relations, Tang Shao-yi

¹⁶ Article I of Regulations Regarding Trade, Communications and Pasturage Appended to the Convention Between Great Britain and China Relating to Sikkim and Tibet of 1890, signed in 1893; Article I of the Convention Between Great Britain and China Relating to Sikkim and Tibet of 1890.

¹⁷ *The Times* in Beijing, 27 January, 1904, cited in Henry Sanderson, *Transgression of the Frontier: An Analysis of Documents Relating to the British Invasion of Tibet*, Inner Asia, 2012, Vol. 14, No. 1, p 43-4.

¹⁸ The full content of the Treaty could be found in Charles Bell, *Tibet Past and Present*, Oxford University Press, 1927, p 284.

insisted that Chinese sovereignty in Tibet should be recognized.¹⁹ But the British Government only agree to recognize Chinese suzerainty as the appropriate expression of their relationship with Tibet. Facing the British opposition to the mention of sovereignty, Tang later put forward the amendment of the Article IX that the Chinese Government should be sole intermediary in all communications between India and Tibet.²⁰ The British further claimed the only way they would agree to not using the term suzerainty in the text of adhesion agreement and exclude China from the term foreign Power in Article IX, would be if China accepted all the other terms of the Treaty of Lhasa. As a result of China's concession, on 27 April of 1906, the Convention between Great Britain and China respecting Tibet was signed at Peking, and the Treaty of Lhasa was attached to the Convention of 1906 as an annex.²¹ In Europe, with the rapid rise of German military power, the Great Britain and Russia were increasingly skeptical of Germany's imperialistic motives. It was in such context that the need of resolving differences between British and Russians in Asia arose, and consequently the Convention between the United Kingdom and Russia relating to Persia, Afghanistan, and Tibet was signed on August 31, 1907, in St. Petersburg.²²

On the question of relations with Tibet, the Article II of Anglo-Chinese Convention of 1906 stipulated that "the Government of Great Britain engages not to annex Tibetan territory or to interfere in the administration of Tibet. The Government of China also undertakes not to permit any other foreign State to interfere with the territory or internal administration of Tibet." Similarly, the preamble of the Anglo-Russian Convention of 1907 stated that "The Governments of Great Britain and Russia recognizing the suzerain rights of China in Tibet, and considering the fact that Great Britain, by reason of her geographical position, has a special interest in the maintenance of the status quo in the external relations of Tibet", and the Article I of the Convention further stipulated that both contracting parties "engaged to respect the territorial integrity of Tibet and to abstain from all interference in the internal administration." By combining the wordings of above articles, for the British Government, there were three points that could be confirmed from her commitments. Firstly, the Great Britain affirmed that Tibet was not

¹⁹ Tang cited the evidences that the investiture of the Dalai and Panchen Lamas, the appointment of Kablons and local Tibetan officials were owned by the Chinese Court, and the supervision of the native troops was owned by the Amban. Tieh-tseng Li, p 109.

²⁰ Lu Xingqi, Xizang Jiaoshe Shiyao (important diplomatic dealings concerning Tibet), published by Mongolian and Tibetan Affairs Commission, pp 25-27.

²¹ Charles Bell, Tibet Past and Present, Oxford University Press, 1927, p 287.

²² Ibid., p 289.

the British territory; secondly, Britain promised China (in the Convention of 1906) and Russia (in the Convention of 1907) not to annex Tibet; Thirdly, Britain also promised China and Russia not to interfere in the administration of Tibet. For the Russian Government, it can also be inferred from the Convention of 1907 that Russia made two commitments to Britain. The one is that Russia confirmed Tibet was not the Russian territory; the other is that Russia promised to Britain not to annex Tibet and not to interfere in the inner administration of Tibet.

Furthermore, on the question of dispatching delegate to Lhasa, the Article II and Article III of the Convention of 1907 stipulated: “in conformity with the admitted principle of the suzerainty of China over Tibet, Great Britain and Russia engage not to enter into negotiations with Tibet except through the intermediary of the Chinese Government..... The British and Russian Governments respectively engage not to send Representatives to Lhasa”. There at least entails two points in these articles. The first one is Britain and Russia promise each other not to have directly communication with Tibet and not to send Representatives to Lhasa. The second one is that only through the intermediary of the Chinese Government could the British and Russian establish direct communication with Tibet. These two articles confirmed that China was the only Power that took in charge of foreign relations of Tibet, which means China could deal with the external affairs of Tibet alone or handle this with the Tibetan Government together.

Regarding to the status of Tibet, in fact, as early as the Anglo-Chinese negotiation for the Convention of 1906, Britain had pressured China to accept suzerainty as appropriate expression of its relation with Tibet in the text of the Convention. The Chinese Representative Tang Shaoyi, learned from the experiences of Korea, Vietnam, Ryukyu, and Myanmar, feared that if China accepted suzerainty this would eventually dissolve Chinese political authority in Tibet. For this reason, Tang did his utmost to contest the usage of suzerainty and contended that China had constantly exercised sovereignty over Tibet.²³ Finally, China accepted almost all the provisions of the Treaty of Lhasa in exchange for Britain’s consent to not use suzerainty in the text of the Anglo-Chinese Convention of 1906 and to exclude China from “foreign power” in the Article IX of the Treaty of Lhasa. Nevertheless, the Anglo-Russian Convention of 1907 eventually used

²³ Amanda J. Cheney, *Tibet Lost in Translation: Sovereignty, Suzerainty and International Order Transformation, 1904–1906*, *Journal of Contemporary China*, 2017, Volume 26, Issue 107, p 780.

the expression of suzerainty of China over Tibet to define Sino-Tibetan relations. China, as a third party to the Convention of 1907, had never acknowledged its authority in Tibet should be defined as suzerainty rather than sovereignty, and this attitude had already been clearly demonstrated in the negotiations with the British. As discussed previously, suzerainty is by no means sovereignty, and it seems more like a derogation of sovereignty by dividing this supreme and absolute power into internal and external aspects. For China, the term of “suzerainty” used in the Convention of 1907 apparently imposed negative burden on its sovereign claim on Tibet, and this is analogous to saying that the Convention itself had somewhat created an obligation of accepting the using of suzerainty for China, if it still wanted to benefit from other articles of the Convention. However, according to the principle of *pacta tertiis nec nocent nec prosunt*, treaties cannot impose obligations on third States without their consent, and this rule has been affirmed through many State practices and international judicial decisions. For example, the United States, while acquiescing in the provisions of Article I of the Convention of London of 1841 which closing the Bosphorus and Dardanelles to foreign war ships, maintain that since it was not a party to the Treaty, thus this obligation was not binding upon it, and its acquiescence must be considered as simply an act of grace on its part.²⁴ In the case relating to the Territorial Jurisdiction of the International Commission of the River Oder, the Permanent Court of International Justice concluded that since Poland had not ratified the Barcelona Convention on Freedom of Transit of 1921, thus the claimers could not invoke the Convention against Poland.²⁵ Likewise, the Great Britain and Russia could not compel China to accept the burden of suzerainty by putting it into the Convention of 1907 unless China had explicitly accepted it. In this sense, the expression of suzerainty in the Convention of 1907 could not be used against China’s sovereignty claim over Tibet, and needless to say suzerainty is an ambiguous term to define the relation of the Qing Empire and Tibet.

In summary, although there were still many ambiguities in the Anglo-Chinese Convention of 1906 and Anglo-Russian Convention of 1907, they did to some extent reinforced the declining Chinese authority in Tibet. For China, it become the only Power which took in charge of all external affairs of Tibet because it had undertaken not to permit any other foreign State to interfere with Tibet the territory or internal administration of Tibet by above conventions. And for Britain and Russia, they not only

²⁴ Moore, A Digest of International Law, Vol. 1, Washington: Government Printing Office, 1906, p 664-8.

²⁵ Case relating to the Territorial Jurisdiction of the International Commission of the River Order - United Kingdom, Czechoslovakia, Denmark, France, Germany, Sweden v. Poland, PCIJ Series A no 23.

promised not to annex Tibet and not to send representatives to Lhasa, but neither of them would negotiate with Tibet except through the intermediary of China. In addition, China was excluded from “foreign Powers” in the Article IX of Treaty of Lhasa through signing the Anglo-Chinese Convention of 1906, which may be explained as an acquiescence that China reserved the right to interfere in Tibet’s internal administration. With regard to the suzerainty of China over Tibet, considering China’s consistent opposition on suzerainty as well as its ambiguities in international legal discourse, this expression in the Anglo-Russia Convention of 1907 can neither precisely reflected the status of Tibet during the early twentieth century, nor can it be used against China’s sovereign claim over Tibet. But putting aside the dispute between sovereignty and suzerainty, the essence of the problem is that whether Tibet could realize its internal autonomy without Chinese interference in the early twentieth century. Therefore, it is necessary to examine whether the Chinese Government took measures to reconsolidate its authority in Tibet or indulged itself in completely losing the influence on the internal affairs of Tibet.

4. The Chinese rule in Tibet During the Early Twentieth Century

After undergoing a series of crisis such as the Boxer rebellion and intervention of foreign Powers, the top levels of the Qing Government began to recognize the necessity for carrying out reforms that would secure State power. Under such background, many reform measures, which from rectifying army to drafting constitutional laws, had been implemented by the Qing Government since 1901. With regard to Tibet, the British Expedition to Lhasa from 1903 to 1904 triggered China to restore its position in Tibet. In fact, as early as 1903 some military, administrative and economic measures were already performed by Chinese officials to consolidate the Chinese position in eastern Tibet where adjacent to Szechuan Province. After the signing the 1906 Anglo-Chinese Convention and 1907 Anglo-Russian Convention which prohibited Britain and Russia from directly interfering in Tibetan affairs, the Qing Government appointed Chang Yintang (张荫棠) as High Commissioner to investigate the situation and to take corresponding measures to reestablish China’s prestige in Tibet. This section aims to explore Qing’s reform attempts in Tibet and to examine whether these measures were compatible with the description of the suzerainty that stipulated in the Anglo-Russian Convention of 1907.

4.1 The Situation in Eastern Tibet

Kham is one of three traditional regions of Tibet, along with U-Tsang and Amdo and is located between the eastern portion of Tibet and the western portion of Szechuan Province. Although Kham was theoretically under the supervision of Szechuan Province since 1725, the peoples of Kham had continuously maintained their independence in the form of two dozen or more kingdoms and tribes.²⁶ Local chieftains ruled their territories with hereditary titles bestowed by the Chinese government, and most of them worshipped the Dalai Lama and often contacted with the Lhasa Government. As Chinese authority in Kham consisted of little more than some military posts which supported post system and transport of Chinese officials from Szechuan to Tibet, these chieftains were able to rule with a large degree of independence from both China and Tibet.²⁷ However, Lhasa gained control of some eastern part of Kham by intervening in the 1860 revolt in Nyarong, while Chinese influence over southern Kham was weakened by a revolt of Litang monastery in 1894.²⁸ It was the 1903 British expedition to Lhasa that stimulated the Qing Government to restore its position in Tibet and to achieve this, the very first step was to establish direct control over the kingdoms and tribes living in the Tibet-Szechuan border areas, that is Kham.

In 1903 the Grand Council (军机处) in Peking issued a proposal to open up wasteland for farming by immigrating Chinese settlers of Szechuan to Kham and promoting Chinese military existence in Kham.²⁹ In response to the proposal, Hsi-Liang (锡良), the Governor-General of Szechuan, began to carry out a policy by usurping the power of the local tribal chieftains and conferring it upon assigned officials to establish military-agricultural habitations in Kham.³⁰ In the meantime, the Qing Government approved the proposal of the senior amban Youtai (有泰) that transferred assistant amban from Lhasa to Chamdo, which is situated in western Kham, to facilitate Hsi-Liang's reforms in Tibet-Szechuan border.³¹ The newly appointed assistant amban Feng Ch'uan(凤全) arrived at Batang on the way to Chamdo and remained there to establish administrative control. Feng attempted to restrict the scale of monasteries, but

²⁶ Warren W. Smith, *Tibetan Nation - A History of Tibetan Nationalism and Sino-Tibetan relations*, Westview Press, 1996, p 168.

²⁷ Hugh E. Richardson, *Tibet and its History*, Second Edition, Boulder and London: Shambhala, 1984, pp. 28-68.

²⁸ S.A.M. Adshead, *Provinces and Politics in Late Imperial China, Viceregal Government in Szechuan, 1898-1911*, London: Curzon Press, 1984, p 57, recite from Warren W. Smith, p 168.

²⁹ *Qing Shilu (清实录)*, vol. 58, July of the Twenty-ninth years of Guangxu Emperor, *Zhonghua Shuju (中华书局)*, 1987, p 855.

³⁰ Tatiana Shaumian, *Tibet-The Great Game and Tsarist Russia*, Oxford University Press, 2000, p 142.

³¹ Zhao Yuntian (赵云田), *The Study on New Policies in Late Qing Dynasty(清末新政研究)*, Heilongjiang Education Press, 2014, p 235.

under his crude leadership, an anti-Manchu uprising soon broke out in Batang in 1905, in which many lamas participated.³² The revolt then spread to other neighbouring regions along the Szechuan-Tibetan border after Feng was killed in Batang. In response to Tibetan's resistance in Kham, Szechuan authority immediately sent a punitive expedition, which consisted of 2000 men that led by Ma Wei-ch'i (马维骐) and Chao Erh-feng (赵尔丰), to retake Chinese control. In June of 1905, they captured Batang and executed local Tibetan chieftains as well as lamas participated in the revolt. After Ma returned to Szechuan, in June of 1906 Chao was appointed as High Commissioner of the Szechuan-Yunnan Frontier Affairs to deal with all questions relating to settlement and defence in Kham.³³ Chao announced in Batang that since the local chieftains had been beheaded, both Chinese the Chinese and the tribesmen of Batang were subjects of the Emperor of China, and subjected to the jurisdiction of Chinese officials.³⁴ Subsequently, a series of reform measures were taken to carry out Chao's commitment.

In the political field, the office of local chieftain was abolished forever and was replaced by Chinese officials assigned by the Qing Government. The Tibetans were obliged to pay tax to Chinese officials and were to cease to observe any obligations monasteries; lamas were not allowed to interfere in any way with the administration of the district; in the judicial field, all law-suits, whether the parties concerned were Chinese or Tibetans, would be decided by the Chinese local authorities; with regard to the field of economy, Chao Erh-feng appealed to the Chinese population of neighbouring provinces to settle in eastern Tibet and to reclaim waste lands, promising benefit such as giving them best lands for cultivation, providing them with seeds and agricultural tools, and offering perpetual land lease from the officials;³⁵ in the religious field, Tibetan monasteries were allowed to exist, but each monastery was limited to a maximum of 300 monks; the Chinese officials constructed the Chinese Confucius temples, but lamas were not permitted to reside in these temples; and in education, Chinese government schools, which all boys from the age of 5 or 6 had to attend, were to be established in eastern Tibetan.³⁶

³² Feng tried to limit the power of monasteries by prohibiting them from accepting recruits for a period of twenty years. Besides, brutal suppression of the Tibetan inhabitants, execution of lamas, eviction of local people from the most fertile land, and forcible conscription in the army also lead to the resentment against Feng. See Tatiana Shaumian, p 143.

³³ Zhao Yuntian, p 239.

³⁴ IOR/L/PARL/2/334, Enclosure in No. 159, Regulations for the Future Administration of Batang, Dispatch from the Acting Consul-General, Cheng-tu, to Sir. Jordan, dated 29th December, 1906.

³⁵ IOR/L/PARL/2/334, Enclosure in No. 182.

³⁶ Ibid.

Through the repression of local chieftains and monastic influence, Chao Erh-feng successfully broke the spiritual and economic dominance of lamas along the Szechuan-Yun'nan-Tibetan border, and in the meantime, a complete set of governmental institutions in charge of civil and judicial affairs, tax and education was established in Kham, which was subordinated directly to the authorities of the frontier provinces. Therefore, all the activities of the Qing Government in eastern Tibetan represented a departure from Qing's previous policy of maintaining influence by conferring titles on local chieftains and patronizing Buddhism, on the contrary, with the help of Chao Erh-feng's reform, the Qing Government had consolidated Chinese control in Kham and gradually incorporated eastern Tibet into direct Chinese administration.

4.2 Chang Yin-tang's New Policy in Lhasa

As previously mentioned, the invasion of Tibet in 1903 and the Treaty of Lhasa of 1904 dramatically changed Chinese policy toward Tibet, and attempts were made to restore Chinese influence in Tibet. By taking advantage of the Anglo-Chinese Convention of 1906, which prohibited the Great Britain from interfering the internal administration of Tibet, the Qing Government promptly appointed Chang Yin-tang, who participated in the negotiation of the Convention of 1906, as High Commissioner to reform Tibetan administration.³⁷ He arrived in Tibet in the autumn of 1906 and then worked in gaining control over Tibetan administration with the absence of the Dalai Lama.

To eliminate obstacles to reform, Chang firstly sent a telegram to the Qing Government to dismiss the Amban You-tai for corruption and incompetence of preventing the British army from invading Tibet.³⁸ In response to Chang's request, the Qing Government imprisoned You-tai and exiled him to the garrison in He Bei (河北). Moreover, several Chinese officials in Tibet were also punished or degraded for the same reason. With regard to the Tibetan officials, a similar action had been taken against Tibetan officials who had taken part in negotiations with the British in 1904.³⁹ On this ground, the British believed Chang's action was aimed to sweep away all officials connected with improvement of British relations with Tibetans and protested this to the Qing

³⁷ Charles Bell, *Tibet: Past and Present*, Oxford University Press, 1968, p 88.

³⁸ Zhao Yuntian, p 258.

³⁹ Tatiana Shaumian, p 145.

Government.⁴⁰ In a written reply from the Chinese Ministry of Foreign Affairs, they insisted that the former Amban and the Tibetan officials had been punished for the guilty of corruption on the one hand and on the other hand, they promised the relations between British and Tibetan officials would be maintained by the Chinese officials appointed by Chang.⁴¹ The punishment of the incompetent officials, no matter they were the Chinese or the Tibetans, revealed that the Qing Government could engage in the internal administration of Tibet, even in the face of British diplomatic pressure. From this perspective, the Chinese activities in Tibet were by no means in conformity with the definition of suzerainty that vassal State remains internal independent, which the suzerain State is under a duty to respect.⁴²

By taking advantage of the Dalai Lama's absence in Tibet, Chang Yin-tang and his successor Lian Yu (联豫) carried out a series of reforms aimed at strengthening the Chinese control over Tibet. To promote the administrative system, Chang put forward a proposal that set up nine new offices to manage the military, trade, tax, agriculture, communication and mining, however, his measures were resisted by both conservatives from the Qing Government and the Tibetan aristocrats.⁴³ After his nine months tenure, Chang was replaced by Lian Yu, who was appointed as new Amban, to take over the administration of Tibet. Although the new Amban was hostile to Chang, Lian, to a large extent, had followed the reform policies of his predecessor and put most of them into effect. In the field of the administrative system, Lian abolished the grain commissaries that providing military supplies, and their function of adjudicating Chinese lawsuits was assigned to officials with the rank of Sub-Prefects in Chamdo, Lali and further Tibet.⁴⁴ In the economic field, Lian ordered to mint new silver coins with title of the Qing dynasty to highlight China's economic sovereignty when the rupee was widely used in Tibet;⁴⁵ In 1908 and 1909, three trading ports were opened in Gyantse, Yatung and Gartok for international trade, and Chinese customs administration was introduced in the above places.⁴⁶ With regard to public order, Lian set up a police station of about

⁴⁰ IOR/L/PARL/2/334, No. 144.

⁴¹ IOR/L/PARL/2/334, No. 149.

⁴² Alexandrowicz Alexander, *The Legal Position of Tibet*, 1954, Vol. 48, No. 2, p 266.

⁴³ Zhao Yuntian, *Discussion on Tibet's New Policy in the Late Qing Dynasty* (清末西藏新政述论), *Modern Chinese History Studies*, vol.5, 2002, pp 108-09.

⁴⁴ FO/881/9231, Enclosure in No. 57, Extract from the "Peking Gazette" of July 18, 1907.

⁴⁵ Wu Fengpei (吴丰培), *Lian Yu's Memorials in Tibet* (联豫驻藏奏稿), Tibet people's Publishing House (西藏人民出版社), 1979, pp 111-12.

⁴⁶ Zhao Yuntian, *Discussion on Tibet's New Policy in the Late Qing Dynasty*, pp 116-17; Tatiana Shaumian, *Tibet-The Great Game and Tsarist Russia*, p 146.

160 men in Lhasa in 1909, and he planned to open two branches in Gyantse and Yatung after training adequate police officers.⁴⁷ In the field of culture, specialized schools were opened to teach the Tibetan and the Chinese languages, and a printing office was subsequently added.⁴⁸ To strengthen the defence of Tibet, a modern army of 6000 men, of whom three-fifths were Chinese and two-fifths were Tibetans, was trained for service in Tibet; Lian also drafted fourteen cadets from the Szechuan Military college to Tibet for establishing a military training college in Lhasa.⁴⁹

It can be seen from Chang and Lian's measures that Qing's new policy aimed at gradually converting Tibet into a Chinese province. Although Chang's project was only partly fulfilled by himself and Lian, their performances were considered a "bright spots" in Sino-Tibetan relations in comparison with their predecessors.⁵⁰ Seeing that the Qing Government was too weak to fully support the new policy in Tibet, neither Chang nor Lian had successfully placed Tibet under the full control of the Qing Government. However, their efforts, to some extent, did recover and extend the Chinese power in the internal administration of Tibet, which went far beyond the case of suzerainty that the British used to describe Sino-Tibetan relations.

4.3 The Dalai Lama in Peking

After Younghusband's mission approaching Lhasa in 1904, the thirteenth Dalai Lama first fled to Mongolia and then stayed in Qinghai Province waiting for the opportunity to return Tibet. Considering the ongoing Sino-British negotiations for the later convention, the Qing Government declined the Dalai Lama's request for returning to Tibet from Qinghai for fear that he might become an obstacle for the Convention of 1906.⁵¹ When affairs in Tibet between China and Britain had been almost settled, in the July of 1908 the Emperor granted the Dalai Lama to come to Peking for an audience.⁵²

⁴⁷ Zhao Yuntian, *The Study on New Policies in Late Qing Dynasty*, pp 278-9.

⁴⁸ IOR/L/PARL/2/334, Enclosure in No. 247, Memorial from Lian Yu, the Imperial Resident, on the establishment of a printing office and of a military college in Tibet, 2nd June, 1908.

⁴⁹ IOR/L/PARL/2/334, Enclosure in No. 205, Summary of a Memorial by the Board of Finance respecting Tibet, approved by Imperial Rescript of 20th June, 1907; Enclosure in No. 247, Memorial from Lian Yu, the Imperial Resident, on the establishment of a printing office and of a military college in Tibet, 2nd June, 1908.

⁵⁰ G. Clark, *Tibet, China and Great Britain*, Peking, 1924, p. 22, recite from Tatiana Shaumian, p 145.

⁵¹ IOR/L/PARL/2/334, No. 109; No. 115; No. 126.

⁵² IOR/L/PARL/2/334, Enclosure in No. 249, Extract from the "Peking Gazette" of 19th July, 1908 – Imperial Decree.

The Dalai Lama arrived in Peking on the 28th of September in 1908, and as political and religious leadership of Tibet, the question of how to treat the Dalai Lama to some extent reflected the Qing's attitude towards the Sino-Tibetan relations. The rules for the reception of the Dalai Lama made by the Grand Council (军机处) revealed that the Board of Dependencies (理藩院) and the Imperial Household Department (内务府) were mainly responsible for arranging the Dalai Lama's activities in Peking,⁵³ not the Ministry of Foreign Affairs. And according to a memorial of the Board of Dependencies to the Throne, the Dalai Lama shall respectfully greet the Emperor and kowtow to thank the Emperor for the imperial gifts during his audience;⁵⁴ a low couch shall be prepared beside the Throne on which the Dalai Lama may sit.⁵⁵ The treatment of the Dalai Lama illustrated the Qing Government regarded the Dalai Lama more like a subordinate rather than the leadership of a sovereign State on the equal foot, and this argument is convincing especially when the Qing Government had already become more skilled in using international law to deal with relations between States.

During the Dalai Lama's stay in Peking, he had attracted considerable public interest, of course including the staffs of foreign legations. As the Chinese Ministry of Foreign Affairs requested, the members of foreign legations could visit the Dalai Lama accompanying with two Chinese officials in attendance.⁵⁶ The British Minister John Jordan visited the Dalai Lama in Yellow Temple, and the visit was received by both Chang Yin-tang and Da Shou, who was delegated by the Emperor to attend upon the Dalai Lama.⁵⁷ Similarly, the ministers of Russia, the United States and France have also received the audience in the same manner. By taking advantage of the Article II of Anglo-Russian Convention, which excluded these two States from entering into negotiations with Tibet except through the intermediary of the Chinese, on this occasion,

⁵³ The Board of Dependencies was an agency in the Qing Government which supervised the Qing Empire's frontier Inner Asia regions such as its Mongolian dependencies and oversaw the appointments of Ambans in Tibet; The Imperial Household Department was to manage the internal affairs of the Qing imperial family, it was also in charge of the ceremonial and spiritual activities of the Qing imperial household and it also often played an important role in Qing relations with Tibet and Mongolia,

⁵⁴ Kowtow is the act of deep respect shown by kneeling and bowing so low as to have one's head touching the ground. In East Asian culture, the kowtow is the highest sign of reverence. It was widely used to show reverence for one's elders, superiors, and especially the Emperor.

⁵⁵ IOR/L/PARL/2/334, Enclosure in No. 258, Rules for the reception of the Dalai Lama sent from the Grand Council to the Board of Dependencies, the Board of Interior, and the comptrollers of the Imperial Household, 30th September, 1908.

⁵⁶ IOR/L/PARL/2/334, Enclosure in No. 260, Note from the Wai-wu Pu to the Doyen of the Diplomatic Body, dated 8th October, 1908.

⁵⁷ IOR/L/PARL/2/334, Enclosure in No. 262, Memorandum, Dispatch from Sir. J. Jordan to Sir. Edward Grey, date Peking, 25th October, 1908.

the Qing Government properly took the opportunity to manifest its dominant position in external relations of Tibet.

The Dalai Lama had stayed in Peking for one month to visit the young Emperor and the Empress Dowager, the virtual ruler of the country. And before the Dalai Lama returned to Tibet from Peking, the Empress issued an imperial decree to him ordering that he must obey the ordinance of the Qing Government and he shall follow the established law of reporting to the Court through the amban when an incident arises.⁵⁸ Although the Dalai Lama sought to improve his position by proposing that he should memorialize the emperor directly, the Board of Dependencies refused to allow him to do so. Besides, an addition was conferred on the title of the Dalai Lama, which from “the Great, Good, Self-existent Buddha of Heaven” to “the Loyally Submissive Vicegerent, the Great, Good, Self-existent Buddha of Heaven”.⁵⁹ In the eyes of the British Minister John Jordan, it constituted “the first unequivocal declaration on the part of China that she regarded Tibet as within its sovereignty, be it noted not, suzerainty”.⁶⁰ This new title expressly indicated that the Qing rulers expected the Dalai Lama could sincerely submit to the Chinese authority and respectfully observe the orders of its sovereign State.

Conclusion

Through Chao Erh-feng’s radical reform in Kham, the eastern Tibet had been gradually placed under the direct administration of the Qing Government. In Tibet, Chang Yin-tang and Lian Yu also tried to implement a series of the new policy to transform Tibet into a province of China. Although many of the reform plans had not been carried out due to the lack of government financial support, those reforms which had been implemented to some extent restored the Qing Government’s control over the internal affairs of Tibet and strengthened the Qing’s sovereign claim over Tibet. From the perspective of international law, on the one hand, China’s exclusive right over the external relations of Tibet had already been confirmed by the Anglo-Chinese

⁵⁸ IOR/L/PARL/2/334, Enclosure in No. 264, Imperial Decree issued in the name of the Empress Dowager: “When he (the Dalai Lama) has arrived in Tibet, he must carefully obey the laws and ordinances of the Sovereign State, and make known to all the good will of the Chinese Court; and he must admonish the Tibetans respectfully to observe the laws and learn the ways of rectitude. In all matters he shall follow the established law of reporting to the Imperial Resident in Tibet for transmission by Memorials to us, as occasion arises; and he shall respectfully await our decision.” Extract from the “Peking Gazette” of 3rd November, 1908.

⁵⁹ *Ibid.*

⁶⁰ Maria Adele Carrai, *Learning Western Techniques of Empire: Republican China and the New Legal Framework for Managing Tibet*, *Leiden Journal of International Law*, vol. 30, Issue 4, p 813; E. Younghusband, *India and Tibet*, London: John Murray, Albemarle Street, 1910, pp 364-84.

Convention of 1906 and the Anglo-Russian Convention of 1907; on the other hand, the restoration of the Chinese control over the internal administration of Tibet was actively promoted by the Chang and Lian's new policies, although these measures failed to bring Tibet into full sovereignty of China like other provinces. Therefore, it is not suitable to use suzerainty to define the Sino-Tibetan relations during the early twentieth century. The series of reforms launched by the competent Chinese officials in the final stage of the Qing Dynasty can be considered as modern China's first State-building attempt in its border regions. However, the outbreak of the Xinhai Revolution of 1911 not only ended the rule of the Qing Dynasty but also ended the efforts to put Tibet under the full sovereignty of China.